



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/722,878	11/27/2000	Eric Christian Hince		6077

55697 7590 09/26/2005

ERIC C. HINCE
P.O. BOX 293
FLORIDA, NY 10921

EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
----------	--------------

1714

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/722,878

Applicant(s)

HINCE, ERIC CHRISTIAN

Examiner

Cephia D. Toomer

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-34 and 48-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-34 is/are allowed.
- 6) ☒ Claim(s) 48-53 and 56-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 4, 2005 has been entered.

This Office action is in response to the amendment filed August 4, 2005 in which claim 48 was amended.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 48, 49, 52, 53, 56 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gago (US 4,470,839).

Gago teaches solid particles of metal peroxide coated with water-soluble condensed phosphates (see abstract). The metal of the peroxide may be Ca or Mg (see col. 3, lines 31-38). The condensed phosphates may be polyphosphates such as

Art Unit: 1714

tripolyphosphates and metaphosphates such as trimetaphosphate and hexametaphosphate (see col. 2, lines 33-41). The condensed phosphates are generally alkali metal or ammonium phosphates and the preferred alkali metal is sodium (see col. 2, lines 65-68). The coating may contain a mixture of phosphates and the preferred phosphates are polyphosphates and metaphosphates (see col. 3, lines 1-5). The amount of the phosphate compounds is from 0.1-40% by weight of the particles (see col. 3, lines 6-10). The coating also contains up to 10% of buffers such as calcium carbonate (limestone) and sodium hydrogen phosphate or potassium sodium phosphate (simple inorganic phosphates) (see col. 3, lines 11-30). The particles may be agglomerated into pellets or tablets (see col. 4, lines 9-14). Gago teaches the limitations of the claims other than the differences that are discussed below.

Gago fails to teach a combination of sodium hexametaphosphate and sodium trimetaphosphate or the addition of another polyphosphate. However, no unobviousness is seen in this difference given that Gago teaches that the preferred phosphates are polyphosphates and metaphosphates, that the preferred alkali metal is sodium and that a mixture of the phosphates may be employed. Clearly, Gago suggests the claimed mixture of phosphates.

4. Claims 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gago (US 4,470,839) as applied to claims above, and further in view of Koenigsberg (US 5,264,018).

Gago has been discussed above. Gago fails to teach the addition of a nitrate. However, Koenigsberg teaches this difference in a bioremediation composition. See abstract; col. 12, lines 20-43.

It would have been obvious to one of ordinary skill in the art to include a nitrate in the composition because Koenigsberg teaches that bioremediation compositions sometimes require additional nutrient supplementation such as 0-40% nitrates.

5. Claims 58 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gago as applied to claims above, and further in view of Kiest (US 6,268,205).

Gago has been discussed above. Gago fails to teach the addition of ferrous sulfate. However, Kiest teaches this difference in a similar composition. See abstract; formulations C and D.

6. It would have been obvious to one of ordinary skill in the art to include ferrous sulfate in the composition because Kiest teaches that in compositions used for soil remediation the ferrous sulfate reacts with the peroxide compounds and leads to the production of hydroxyl and perhydroxyl radicals that oxidize organic contaminants.

7. Applicant's arguments have been considered but are not deemed to be persuasive.

Applicant argues that the addition of component (d) to claim 48 overcomes the prior art of record.

The examiner respectfully disagrees. Gago teaches that talc may be employed in his composition and applicant's list of lubricants includes talc.

Art Unit: 1714

8. Claims 54 and 55 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art fails to teach or suggest the organic and inorganic disintegrant.

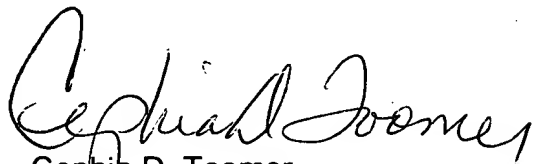
9. Claims 21-34 are allowable because the prior art fails to teach or suggest a solid-chemical composition comprising 57-95% by weight Ca or Mg peroxide, 0.25-25 % by weight sodium hexametaphosphate, 0.25-25 % by weight sodium trimetaphosphate, 0.1-4% by weight pre-gelled starch and 0.05-1% by weight magnesium stearate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cepha D. Toomer
Primary Examiner
Art Unit 1714

09722878\091905